IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 9357 OF 2005

Shri Dharma Chandhu Mahale ... Petitioner
V/s.
Shri Bhikan Sitaram Sonawane ... Respondent

Mr.B.P.Jakhade for the petitioner

CORAM : D.B.BHOSALE,J.
DATE : 07.11.2006

PC:

1. Heard the learned counsel for the petitioner.

2. This petition is directed against the concurrent findings recorded by the courts below. I perused the Judgement and in particular the Judgment of the appeal court. The appeal court after having considered the document at Exhibit-6 has held that there does not exist relationship as landlord and tenant between the petitioner and the respondent for the reasons recorded in paragraphs 10,11 and 12 of the judgment in particular. Even the findings recorded on the other issues, warrant no interference by this Court. Considering the concurrent findings recorded by the courts below and as I find that there is sufficient material on record to sustain those findings and considering the extremely limited jurisdiction of this Court under Article 227 of the Constitution of India to disturb the finding of facts this writ petition fails

and is dismissed as such.

3. At this stage, Ms.Jakhade, learned counsel for the petitioner, prays for liberty to the petitioner to file a fresh suit, if a fresh cause of action has arisen after disposal of the appeal. It is always open for the petitioner to institute a suit on the ground/s available under the provisions of the Rent Act and if such a suit is filed same will be dealt with in accordance with law. While making this observation, I shall not be understood to have expressed any opinion as to the right of the petitioner to file a fresh suit.

(D.B.BHOSALE,J.)